

CONCURRENCE IN SENATE AMENDMENTS

AB 3179 (Juan Carrillo)

As Amended June 27, 2024

Majority vote

SUMMARY

Exempts emergency telecommunications vehicles, as defined, from the Air Resources Board's (CARB) Advanced Clean Fleets (ACF) regulation that requires the phased-in procurement of medium- and heavy-duty zero-emission vehicles (ZEVs), until January 1, 2030.

Senate Amendments

- 1) Delete provisions related to horse racing and minisatellite wagering facilities.
- 2) State that CARB's ACF regulation (Title 13, Division 3, Chapter 1, Article 3.4, California Code of Regulations) does not apply to emergency telecommunications vehicles used to participate in the federal Emergency Alert System, to provide access to 911 emergency services, or to provide wireless connectivity during service outages.
- 3) Define "emergency telecommunications service provider" as a public or private entity that
 - a) Is required to participate in the federal Emergency Alert System or to provide access to 911 emergency services; and,
 - b) Provides wireless connectivity services in emergencies or during other wireless connectivity services outages, including, but not limited to, providing support to the federal First Responder Network Authority and the Nationwide Public Safety Broadband Network.
- 4) Define "emergency telecommunications vehicle" as a bucket truck or a cell-on wheels (COW) unit.
- 5) Sunset these provisions on January 1, 2030.

COMMENTS

Broad implementation of zero-emission technology in the transportation sector is necessary to improve public health and address climate change. According to CARB, the California's transportation sector is responsible for about 40% of greenhouse gases (GHG), 80% of nitrogen oxides, and 90% of diesel particulate matter emissions. In 2020, Governor Newsom issued Executive Order (EO) N-79-20, which requires 100% of medium-and heavy-duty vehicles in the state be zero-emission by 2045 for all operations where feasible and by 2035 for drayage trucks. In support of EO-N-79-20's directive, CARB unanimously approved the Advanced Clean Fleets (ACF) Regulation in April 2023, for phased-in adoption of ZEVs.

Advanced Clean Fleets Regulation. Starting in 2024, ACF requires fleets to buy ZEVs and near-zero emission vehicles (NZEVs) to replace existing medium- or heavy-duty internal combustion engine (ICE) vehicles at the end of their useful life, based on engine model year or mileage. While ACF includes purchase mandates for fleet vehicles at the end of their useful lives (the ZEV Model Year Schedule), it also provides an alternative, flexible compliance option for non-drayage fleets called the ZEV Milestone Option. The ZEV Milestone Option requires a certain

percentage of ZEVs in the overall fleet by key milestone dates. As long as the ZEV fleet milestones are met, fleet owners have considerable flexibility with the rest of the fleet. Under the Milestone Option, fleets can continue purchasing some ICE vehicles, and the mileage and age of existing trucks do not matter so long as the ZEV milestones are met. Under both options, the purchase requirement is agnostic to technology; ZEVs may be battery electric or hydrogen fuel-cell electric vehicles. In addition, for the purposes of non-drayage fleet compliance under either option, purchases of NZEVs will be counted the same as purchases of ZEVs until 2035.

Beyond the ZEV milestone option and NZEV flexibility, ACF also includes a number of specifically tailored exemptions and extensions developed as part of three years of rulemaking. For example, with CARB approval, fleet owners may purchase ICE vehicles if any of the exemptions or extensions apply: (a) Backup vehicle exemption: the vehicle is designated as a backup vehicle for emergency operations in support of declared emergency events; (b) Daily Usage Exemption: there are no ZEVs/NZEVs that will otherwise satisfy a fleet's demonstrated daily usage needs for an existing vehicle of the same configuration; (c) ZEV purchase exemption: the specific vehicle configuration not available for purchase as ZEV/NZEV; (d) Vehicle Delivery Delay Extension: an order for ZEV/NZEV has been placed but the vehicle cannot be delivered by the compliance date due to circumstances beyond fleet owner's control; (e) ZEV Infrastructure Delay Extension: there is delay in infrastructure (e.g., charging) construction due to circumstances beyond the fleet owner's control.

To access these exemptions, fleet operators would need to submit the requisite forms and documentation to CARB for old ICE vehicles to be replaced, and they would receive an answer within 45 days as to whether or not they can purchase a new ICE replacement. Applications for exemptions must be filed no later than one year before the applicable compliance date but no earlier than when the model year of the vehicle being replaced reaches 16 years old or the odometer reaches 700,000 miles; for the ZEV milestone option, an exemption must be filed no later than one year before the compliance date. With respect to (c) ZEV purchase exemptions, starting January 1, 2025, CARB's Executive Officer will publish and maintain a list on CARB's website, indicating specific vehicle configurations that CARB has determined are not available for purchase as ZEV or NZEV and may be exempted from ACF requirements until otherwise specified. The configurations list is expected to include certain configurations of bucket trucks, boom trucks, flatbed trucks, service body trucks, and tow trucks, among others.

As long as the fleet operator meets the criteria in the ACF regulations, they would be able to buy ICE replacement vehicles until a suitable ZEV comes to market.

Telecoms. Telecommunication (telecom) services fill a vital role in modern society, which is why they are subject to a variety of regulations by the Federal Communication Commission and the California Public Utilities Commission. This role is perhaps even more important during an emergency situation, when the ability to communicate can be vital to protecting lives. Many telecom companies are legally required to participate in the national emergency alert system and are essential for connecting people to emergency services through 911. Unreliable service can even worsen dangerous situations, such as in 2018 when Verizon throttled the data connection for Santa Clara Fire Department's mobile command center to 1/200th of its original speed because of the conditions of the Department's plan. In order to do this, these companies must maintain a complex network of physical infrastructure as well as the necessary software and protocols to appropriately route emergency calls.

Telecom companies maintain fleets of vehicles designed to access remote locations and carry specialized technologies for maintaining telecom infrastructure. A bucket truck is a commercial truck that has a long arm carrying a platform for a worker to stand on. Bucket trucks play a vital role in performing aerial maintenance and repairs on telecommunication lines. They can be used for regular maintenance and to ensure connectivity for emergency services and to quickly respond to natural disasters that destroy lines. Cell on Wheels units (COWs) are telecom infrastructures on trailers towed by heavy-duty vehicles. COWs are deployed to restore cellular coverage swiftly in temporary locations during emergencies or outages, ensuring that essential communication channels remain operational for emergency calls and services. Without these vehicles, telecommunications providers would face significant delays in restoring services during emergencies, particularly in the remote, forested areas of the state.

Authorized emergency vehicles (AEVs) are formally defined in California Vehicle Code, benefitting from various statutory and regulatory exemptions. Telecommunications vehicles, such as bucket trucks and COWs, are not included in this definition. Telecom companies argue that, because CARB has exempted AEVs from ACF, their fleets should be similarly exempt since they may be involved in emergency responses.

While telecom companies may not benefit from categorical exemption of AEVs, they still can take full advantage of the other extensions and exemptions under ACF, such as the ability to purchase replacement ICE vehicle if no ZEV vehicle is available that is functionally comparable or the exemption for vehicles contracted to respond to emergency situations. Telecom companies raise concerns that emergency response exemptions only apply in instances of “declared” emergency events, and “declaration” may not happen until after emergency response is well underway.

ACF Carve-Out. ACF touches a wide range of industries and variety of vehicles, reflecting the drastic, immediate nature of actions that California must take to reduce GHG emissions. Acknowledging the challenges in making a transition of this scale, CARB has laid out a number of exemptions, extensions and compliance options under ACF that it appears willing to grant.

Even though the ACF has extensive exemptions and a process for considering more, telecom companies do not believe these options cover their needs and provide the certainty they need, so they are seeking a legislative solution. Telecom companies indicate that new purchases for fleets must be made at least two to three years in advance of compliance deadlines, due to vehicle delivery lead times and testing to ensure operability under working conditions. The above exemptions ultimately require CARB approval, and companies in various industries are concerned about the uncertainty involved in that process when making large orders of vehicles. This bill is similar to other bills introduced this legislative session that would have the Legislature provide more certainty to certain businesses by creating statutory exemptions to CARB regulations without the need for CARB’s approval.

Because there are some ZEV models capable of performing some functions of current ICE vehicles, telecom companies are also concerned that CARB may deny them these exemptions. For example, several zero-emission bucket trucks are currently available. These bucket trucks are suitable for operations in urban environments, but might struggle in situations where lines need to be repaired in remote locations, further away from charging stations or on terrain that requires stronger engines to navigate. Theoretically, under the ZEV Milestone Option, a company could purchase ZEV trucks in order to cover a portion of their operations for ZEV milestone

compliance while continuing to purchase ICE bucket trucks in order to respond to needs in remote locations.

Under the Clean Air Act, CARB can enforce state-specific air quality regulations, provided it receives authorization from the U.S. Environmental Protection Agency (EPA) to do so. If passed in its current form, AB 3179 would require CARB to amend the ACF regulation, notify the EPA of the amendments and seek authorization for the changes, which could delay implementation of necessary programs to reduce air pollution and GHG emissions. Delayed adoption of air pollution control regulations and zero-emission technologies could jeopardize California's path towards attainment of National Ambient Air Quality Standards, which puts California at risk of federal sanctions, including potential loss of federal transportation funding. More critically, delays to GHG emissions reductions are likely to lead to worsening outcomes for all Californians from climate change, including more frequent, more severe emergency events.

Tackling the climate crisis is a colossal undertaking, and will require public sector and private sector fleets to adapt to new, occasionally uncomfortable ways of doing things. Although CARB's timeline for reviewing and granting exemptions and extensions may not align exactly with business timelines, a blanket statutory exemption for an entire subset of vehicles, simply because some are needed periodically to respond to emergency events, is premature at this stage.

According to the Author

"AB 3179 is a necessary piece of legislation, which would allow for a narrow exemption for Bucket Trucks and Cell on Wheels (COWs) to the CARB Advanced Clean Fleet regulations to ensure maintenance of lines and services that provide 9-1-1 and Emergency Alert System (EAS) connection. There are significant challenges hindering the adoption of zero-emission electric vehicles for Bucket Trucks and COWs. The heavy-duty nature of these vehicles necessitates high power and long-range capabilities, which current electric vehicle technology struggles to meet efficiently. Moreover, rapid deployment needs during emergencies, often in areas with limited or no commercial power, further complicates the feasibility of electric options. The transition to fully electric solutions remains impractical, making these exemptions critical for maintaining the reliability and availability of emergency communication infrastructure."

Arguments in Support

A coalition of supporters, including The California Broadband & Video Association (CalBroadband, sponsor), CTIA, USTelecom, the Wireless Infrastructure Association, CalCom Association, the California Fire Chiefs Association, and the Fire Districts Association of California, write: "The transition to fully electric solutions remains impractical, making these exemptions critical for maintaining the reliability and availability of emergency communication infrastructure. ... The California Air Resources Board recognized the important role emergency vehicles play in times of crisis and exempted them from their Advanced Clean Fleet regulation. Unfortunately, the exemption only covers government-owned vehicles and fails to recognize the importance of private entities, and their vehicles, in responding to emergencies and ensuring essential communication functions are repaired and operable. Therefore, it is imperative to pass this bill to ensure that telecommunications providers can effectively respond to emergencies and restore critical services promptly."

Arguments in Opposition

The Natural Resources Defense Council and Union of Concerned Scientists state: “The ACF regulation already contains a range of exemptions and flexibility options designed to address the very concerns raised by AB 3179. ... AB 3179, by proposing additional exemptions specific to emergency telecommunications vehicles, could lead to regulatory confusion and unnecessary revisions to the ACF rule, which is still awaiting its preemption waiver from the U.S. Environmental Protection Agency.

“Given that the ACF rule already provides the necessary flexibility for emergency telecommunications vehicles, we believe AB 3179 is redundant and could hinder the state’s progress toward a zero-emission future. California should remain focused on the current regulatory framework, which carefully balances the need for operational flexibility with the imperative to reduce emissions.”

FISCAL COMMENTS

According to Senate Appropriations Committee, “The California Air Resources Board (ARB) estimates ongoing costs of \$1.4 million in 2024-25, \$465,000 in 2025-26, and \$232,000 annually thereafter (Air Pollution Control Fund [APCF]) to amend and update the existing Advanced Clean Fleets (ACF) and regulations with a new exemption and updated deadline, process ACF exemption requests, adjust the Emission Inventory, and amend the 2022 Scoping Plan to reflect changes in order to minimize or reduce any potential impacts that could affect meeting the 2045 carbon neutrality goal as planned.”

VOTES:**ASM GOVERNMENTAL ORGANIZATION: 21-0-1**

YES: Blanca Rubio, Lackey, Addis, Bains, Bryan, Davies, Dixon, Gabriel, Gipson, Haney, Jones-Sawyer, Low, McKinnor, Pacheco, Papan, Jim Patterson, Ramos, Soria, Waldron, Valencia, Wallis
ABS, ABST OR NV: Cervantes

ASSEMBLY FLOOR: 75-0-5

YES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Cervantes, Chen, Connolly, Davies, Dixon, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

ABS, ABST OR NV: Wendy Carrillo, Megan Dahle, Essayli, Low, Mathis

UPDATED

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